

REMARKS

Claims 1-10 (as amended) and new claims 11-16 are pending. No new matter is introduced.

35 U.S.C. § 112, second paragraph rejection of record

Claims 4, 5 and 10 are rejected under 35 U.S.C. § 112, second paragraph, for the reasons noted at page 2 of the Office Action. In response, claim 4 is amended to delete the offending terms “a disease” and “a main component.” Also, claim 10 has been amended to recite what the “component” refers to.

In view of the foregoing claim amendments, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 4, 5 and 10 under 35 U.S.C. § 112, second paragraph.

35 U.S.C. § 102(b) rejection of claims 1-5, 7 and 9 over U.S. Pat. No. 5,444,054 (“Garleb”)

Claims 1-5 and 7 are rejected under 35 U.S.C. § 102(b) over Garleb for the reasons noted at pages 3-5 of the Office Action. In response, Applicants’ have amended independent claims 1, 7 and 9 to indicate that the “oligosaccharide is a galactooligosaccharide.” Additionally, claim 5 has been amended to delete “xylooligosaccharide” and “fructooligosaccharide” therefrom.

In view of the foregoing amendments, Applicants respectfully submit that the claims (as amended) are novel over Garleb. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-5, 7 and 9 under 35 U.S.C. § 102(b) over Garleb.

35 U.S.C. § 102(b) rejection of claim10 over U.S. Pat. No. 5,294,458 (“Fujimori”)

Claim 10 is rejected under 35 U.S.C. § 102(b) over Fujimori for the reasons noted at page 5 of the Office Action. In response, Applicants have amended claim 10 to recite that the “component is selected from the group consisting of an oligosaccharide, a galactan, a beta glucan and a mixture thereof, and wherein said oligosaccharide is a galactooligosaccharide.” Certainly, the “lactosucrose” of Fujimori does not anticipate claim 10, as amended.

In view of the foregoing amendments, Applicants respectfully submit that claim 10 is novel over Fujimori. Thus, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 10 under 35 U.S.C. § 102(b) over Fujimori.

35 U.S.C. § 103 rejection of claims 1-8 over Hara (Phytochemicals and Phytopharmaceuticals, pp. 214-221, Eds. Shahidi, Fereidoon; Ho, Chi-Tang (2000); “Hara”)) in view of Garleb

Claims 1-8 have been rejected under 35 U.S.C. § 103 over Hara in view of Garleb for the reasons noted at pages 6-10 of the Office Action. Applicants' prior claim amendments and remarks regarding the 35 U.S.C. § 102(b) rejection over Garleb are equally applicable here. As such, those prior remarks are incorporated herein as if stated here. In view of the above-noted amendments to claims 1, 5, and 7, those claims are novel over Garleb. In addition, those amendments render Garleb useless as a reference against claims 1-8 because these claims no longer recite either a “xylooligosaccharide” or a “fructooligosaccharide.” Since the claims recite neither a “xylooligosaccharide” or a “fructooligosaccharide”, claims 1-8 are no longer rendered obvious over Hara in view of Garleb. Certainly, the statement in the Office Action repeated at pages 7 (lines 11-12) and at page 9 (lines 6-7) that:

The difference between the applicant's [sic] claimed method and the method disclosed by Garleb et al. is that applicant [sic] also uses a polyphenol

is no longer true.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-8 over these references as applied.

New Claims 11-16

New claims 11-16 are directed to certain aspects of the invention which are patentable over the references of record. It should be noted that claim 12 recites that the fiber is other than an oligosaccharide. Claim 13 recites that the fiber is a galactan. Claim 14 recites that the fiber is a beta glucan. Claim 15 recites the same language as originally rejected claim 1 with “consisting essentially of” language in place of “comprising.” Likewise, claim 16 recites the same language as originally rejected claim 1 with “consisting of” language in place of “comprising.”

For at least all the foregoing reasons, Applicants respectfully request reconsideration and withdrawal of all rejections of record and to permit all claims 1-16 to pass to allowance.

Other

Should there be any other outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Ajay Pathak at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By


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